REMARKS

This Response is submitted in reply to the Non-Final Office Action dated October 29, 2008. Claims 1-38 are pending in this application. Claims 1-38 are rejected. In response, Claims 1, 5, 9, 10, 14, 18, 19, 23, 27, 28, 31, and 33-38 and the sheets containing Figs. 1-31 have been amended. The amendment does not add new matter. In view of the amendment and/or for the reasons set forth below, Applicants respectfully submit the rejections are improper and should be withdrawn.

Amendments to the Drawings

Please note the replacement sheets only include Figures 1-30 and replace the previously submitted sheets containing Figures 1-31. No new matter has been added thereby.

Rejections under 35 U.S.C. 112

In the Office Action, Claims 9, 18, 27, 33 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully traverse the rejections for at least the reasons set forth below.

Regarding Claims 9, 18, 27, and 34, the Patent Office states there is insufficient antecedent basis for the limitation "the MPEG encoded data." In response, Claims 9, 18, 27, and 34 have been amended to recite, in part, "a portion of I-picture slice encoded data included in the MPEG encoded data."

Further regarding Claims 9, 18, 27, and 34, the Patent Office states Applicants recite an improper Markush Group. Applicants respectfully disagree that a Markush Group should be recited and have amended the claims to clarify this point. For example, Claim 9 has been amended to recite, in part, "wherein the content data for processing which is executed in the scrambling processing in said scrambling processing step is data which at least includes at least one of the following." Applicants claim the content data at least includes one of the following: a portion of a sequence header, a portion of I-picture slice, and PID data. However, in addition to including at least one of these three elements, the content data may include other data not specifically listed. Thus, Applicants do not claim an alternative expression that should be represented by a Markush Group. See MPEP, 2173.05(h). For example, the content data **itself** is

not "selected from the group consisting of A, B and C." *Id.* Rather, the content data includes at least one of multiple elements.

Regarding Claim 33, the Patent Office states there is insufficient antecedent basis for the limitation "the encrypting processing in CBC mode which executes with data." In response, Claim 33 has been amended to recite, in part, "an encrypting processing in CBC mode which executes with data."

Accordingly, Applicants respectfully request the 35 U.S.C. 112 rejections with respect to Claims 9, 18, 27, 33 and 34 be reconsidered and the rejections withdrawn.

Rejections under 35 U.S.C. 101

In the Office Action, Claims 37 and 38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In response, Applicants have amended Claims 37 and 38 to recite in part, "A computer readable medium encoded with a computer program."

Applicants submit that such language is statutory subject matter. For example, the MPEP §2106.01(I) states, "a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.2d at 1583-84, 32 USPQ2d at 1035."

Accordingly, Applicants respectfully request that the 35 U.S.C 101 rejection with respect to Claims 37 and 38 be reconsidered and the rejection withdrawn.

Rejections under 35 U.S.C 102

In the Office Action, Claims 1-2, 4, 7-11, 13, 16-20, 22, 25-28, 30, and 33-38 are rejected under 35 U.S.C 102(b) as being anticipated by U.S. Patent No. 6,526,144 to Markandey et al. ("Markandey"). Applicants respectfully traverse this rejection for at least the reasons set forth below.

Independent Claim 1 has been amended to recite, in part, "a scrambling processing step for executing the scrambling processing as to the content, according to the scramble rule acquired in said scramble rule acquiring step, wherein the scrambling processing is Exclusive-OR computing processing of content data and a previously set settings value or a value

calculated based on this settings value; and a step for recording the scrambled content generated in said scrambling processing step, a table describing locations of the content data executed in the Exclusive-OR computing processing, and the scramble rule applied to the content, onto an information recording medium." Independent Claims 10, 19, 28, and 35-38 contain similar amendments. The amendment is fully supported by the specification. For example, see paragraphs [0232], [0236], and [0261] of the specification. Moreover, similar language was previously contained in Claims 5, 14, 23, and 31.

Regarding independent Claims 1, 10, 19, 28, and 35-38, Applicants respectfully submit that Markandey, at a minimum, fails to teach a table describing locations of the content data executed in the Exclusive-OR computing processing as is claimed and fully supported by the specification. For example, Markandey at column 11, lines 23-26, discloses "the transponder provides the sequence of stored Scramble_Pattern_IDs, so these may be thought of as a table having the variable n, introduced above, of these Scramble_Pattern_IDs." However, Markandey's table is a table of scramble sequences, and not a table describing locations of the content data executed in Exclusive-OR computing processing. See Markandey, column 10, line 22 – column 11, line 14.

Accordingly, Applicants respectfully request the rejection, as being anticipated by Markandey, of independent Claims 1, 10, 19, 28, and 35-38 and the claims that depend thereon be reconsidered and the rejection withdrawn.

In the Office Action, Claims 1, 9-10, 18-19, 27-28, and 34-35 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,021,199 to Ishibashi ("Ishibashi"). Applicants respectfully traverse this rejection for at least the reasons set forth below.

Regarding independent Claims 1, 10, 19, 28, and 35, Applicants respectfully submit that Ishibashi, at a minimum, fails to teach the scrambling processing is Exclusive-OR computing processing and a table describing locations of the content data executed in the Exclusive-OR computing processing as is claimed and fully supported by the specification. For example, the Patent Office recognized that Ishibashi failed to anticipate Claims 5, 14, 23, and 31 which previously claimed the scrambling processing is Exclusive-OR computing processing. Applicants assert that Ishibashi is altogether silent regarding Exclusive-OR computing processing.

Regarding Claims 9, 18, 27, and 35, Applicants respectfully disagree that Ishibashi teaches the content data for processing which is executed in the scrambling processing in the scrambling processing step is data which at least includes a portion of the sequence header. Ishibashi at column 4, lines 12-15, discloses "[t]he stream header portion includes scramble data representing the location of the scrambled image data, i.e., the location of the I picture." The scramble data merely represents the location of scrambled data; however, the scramble data included in the stream header is not itself scrambled. Thus, Ishibashi's stream header (scramble data) is not executed in scrambling processing.

Accordingly, Applicants respectfully request the rejection, as being anticipated by Ishibashi, of independent Claims 1, 10, 19, 28, and 35 and the claims that depend thereon be reconsidered and the rejection withdrawn.

In the Office Action, Claims 1, 3, 5-6, 10, 12, 14-15, 19, 21, 23-24, 28-29, 31-32, and 35-38 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,548,648 to Yorke-Smith ("Yorke-Smith"). Applicants respectfully traverse this rejection for at least the reasons set forth below.

Regarding independent Claims 1, 10, 19, 28, and 35-38, Applicants respectfully submit that Yorke-Smith, at a minimum, fails to teach a table describing locations of the content data executed in the Exclusive-OR computing processing as is claimed and fully supported by the specification. For example, Yorke-Smith at column 6, lines 9-13, discloses "[e]ach control block is stored as a record and the encrypted data blocks are stored in a separate file as contiguous bytes. Accordingly, when the decryption data is extracted from the control bloc:, the next L_1 bytes are read from the file containing the encrypted data blocks." Thus, Yorke-Smith discloses the order of the contiguous control blocks determines how many bytes of data to decrypt according to the extracted decryption data. However, this method fails to teach the locations of content data executed in the Exclusive-OR computing processing, let alone storing the locations in a table.

Accordingly, Applicants respectfully request the rejection, as being anticipated by Yorke-Smith, of independent Claims 1, 10, 19, 28, and 35-38 and the claims that depend thereon be reconsidered and the rejection withdrawn.

In the Office Action, Claim 28 is rejected under 35 U.S.C. 102(b) as being anticipated by UK Patent Application GB 2304009 A to Shunichi ("Shunichi"). Applicants respectfully traverse this rejection for at least the reasons set forth below.

Regarding independent Claims 1, 10, 19, 28, and 35, Applicants respectfully submit that Shunichi, at a minimum, fails to teach the scrambling processing is Exclusive-OR computing processing and a table describing locations of the content data executed in the Exclusive-OR computing processing as is claimed and fully supported by the specification. For example, the Patent Office recognized that Shunichi failed to anticipate dependent Claim 31 which previously claimed the scrambling processing is Exclusive-OR computing processing. Applicants assert that Shunichi is altogether silent regarding Exclusive-OR computing processing.

Accordingly, Applicants respectfully request the rejection of independent Claim 28, as being anticipated by Yorke-Smith, be reconsidered and the rejection withdrawn.

The Patent Office alleges that a certified copy of the priority document has not been submitted. Applicants respectfully submit that this should have been submitted at the PCT phase associated with the corresponding international application, and thus, Applicants should not be required again to submit same.

Conclusion

For at least the foregoing reasons, Applicants respectfully submit that the present application is in condition for allowance and earnestly solicit reconsideration of the same.

The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing. If such a withdrawal is made, please indicate the Attorney Docket No. 112857-309 on the account statement.

Respectfully submitted,

BELL, BOYD & LLOYD LLP

BY _____
Thomas C. Basso
Reg. No. 46,541
Customer No. 29175

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